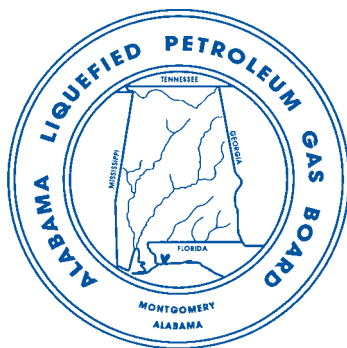


# ALABAMA LP-GAS LAWS

Volume One



**ALABAMA LP-GAS BOARD**

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# VOLUME ONE

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Note: For the LP-Gas Board Regulations see Volume Two



# **Section 1**

## **Liquefied Petroleum Gas Law**

### **§ 9-17-100. Definitions.**

As used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **AUTHORITY HAVING JURISDICTION.** Alabama Liquefied Petroleum Gas Board.

(2) **BOARD.** The Alabama Liquefied Petroleum Gas Board.

(3) **BRANCH.** A local unit of an LP-gas business that is one or more of the following: a division or subdivision or a person doing business under a name other than the Class A permit holder's name; a place where the day-to-day retail operations of an LP-gas business are conducted and at which at least three of the following activities occur or conditions exist: sales of appliances, orders are taken for LP-gas repair and service; orders are taken to refill LP-gas systems either by phone or in person; employees are present during a normal workday; or a place that requires a city or county license to conduct business.

(4) **LP.** Liquefied petroleum gas.

(5) **LPG.** Liquefied petroleum gas.

(6) **LP-GAS.** Liquefied petroleum gas.

(7) **LIQUEFIED PETROLEUM GAS.** Any material having vapor pressure not exceeding that allowed for commercial propane composed predominantly of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butanes (normal butane or isobutane), and butylenes.

(8) **LIQUEFIED PETROLEUM GAS RECOVERY FUND.** A cash surety fund designated to ensure compliance of LP-Gas laws, rules, and regulations adopted by the LP-Gas Board.

(9) **LIQUEFIED PETROLEUM GAS RESEARCH AND EDUCATION FUND.** A fund created to finance activities relating to research, development, and the implementation of marketing, advertising, and informational programs relating to LP-gas directed toward the consumer as well as for the education of industrial members and employees.

(10) **LIQUEFIED PETROLEUM GAS SYSTEM.** Any assembly consisting of one or more containers with a means for conveying LP-gas from the container(s) to dispensing or consuming devices (either continuously or intermittent-

ly) and which incorporates components intended to achieve control of quality, flow, pressure, or state (either liquid or vapor).

11) PERSON. Every natural person, firm, copartnership, association, or corporation.

(12) RED TAG. A red card or device containing an official printed notice of the condemnation of a liquefied petroleum gas system or any connected or disconnected LP-gas component, LP-gas storage container, LP-gas container appurtenance, or LP-gas motor vehicle, transport, or delivery unit placed as a result of a violation of the liquefied petroleum gas safety code provisions and regulations, or as a result of a mechanical defect found on the LP-gas motor vehicle, transport, or delivery unit that could cause a danger to the public if allowed to continue to operate. When attached to a system or to any connected or disconnected LP-gas component, LP-gas storage container, LP-gas appurtenances, motor vehicle, transport, or delivery unit a red tag is official notice of condemnation and of the prohibition of further use, so long as the red tag remains affixed by law. (Acts 1965, No. 220, p. 305, § 1; Acts 1984, No. 84-293, p. 555, § 1; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1993, No. 93-632, p. 1079, § 1; Acts 1994, No. 94-211, § 1.)

**§ 9-17-101. Liquefied Petroleum Gas Board—Creation; composition; qualifications, appointment and terms of office of members; election of officers; meetings; quorum; bylaws; rules and regulations.**

(a) There is hereby created and established the Alabama Liquefied Petroleum Gas Board. Such board shall be composed of seven members: the State Fire Marshal; the State Director of Public Safety; the President of the Alabama Public Service Commission; and four members who are representatives of the liquefied petroleum gas retail Class A permit holders.

(b) Members of the board who are representatives of the liquefied petroleum gas retail permit holders shall have been legal residents of the State of Alabama for at least five years next preceding the date of appointment and shall have been actively engaged in the retail distribution of liquefied petroleum gas in this state for a period of at least five years. No retail Class A permit holder shall have more than one representative on the board at any one time. It is the legislative intent that no single corporation or partnership comprised of separate entities within the state, whether or not separately licensed, be represented on the board by more than one representative at any one time.

(c) From each of four substantially equal geographical areas of the state, designated as the southeast, the northeast, the northwest and the southwest, the Governor shall appoint one retail permit holder member of the board. Such member shall be appointed from a list of at least three nominees receiving the largest

number of votes according to written ballots executed by representatives of retail Class A permit holders.

(d) In the event the Governor has not appointed a board member at the end of 90 days after the list of retail permit holders has been submitted to him, the person on the list having the most votes shall become the board member. In the event of a tie for the most votes, a majority vote of the board members will select which person of those tied will become the board member.

(e) In the event a vacancy occurs during a board member's term, the administrator shall call an election to fill the vacancy and the election shall be held and conducted pursuant to subsection (f). When an elected board member sells his or her LP-gas business or for any reason is no longer actively engaged in the day-to-day operation of an LP-gas business, his or her seat on the board shall be automatically vacated by the completion of the next regularly scheduled board meeting.

(f) The balloting for board members, successor members, and filling vacancies for an unexpired term of office shall be conducted by the administrator of the board under the direction and supervision of the board. For appointments and vacancies, the administrator shall forward by registered or certified mail an official ballot to each retail permit holder or his duly designated representative with instructions for executing the ballot and returning it to the board. The terms of all board members shall be for six years, including members serving on March 20, 1992, but no member shall be denied the right to succeed himself, provided however, no member shall serve more than two consecutive terms of office.

(g) The board shall elect its own chairman and vice-chairman at its first regular meeting each calendar year. All meetings of the board shall be held at Montgomery, Alabama and shall be on a prescribed date, at least quarterly, and at such time as a majority of the board members may request in writing to the board chairman. Any four members shall constitute a quorum for the transaction of any business which may come before the board. The board shall have the power to adopt bylaws and rules of administrative procedure, pursuant to the state administrative procedure statutes.

(h) The board shall have the power and authority to promulgate rules and regulations having the force and effect of law to carry out the provisions of this article. (Acts 1965, No. 220, p. 305, § 2; Acts 1979, No. 79-43, p. 690; Acts 1988, No. 88-142, p. 215, § 3; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1992, No. 92-123, p. 213, § 3.)

#### **§ 9-17-102. Liquefied Petroleum Gas Board—Compensation of members.**

Board members shall receive travel expenses and per diem based at the rate

that is currently prescribed by the state for its state employees, while attending official meetings of the board or while attending to official board business. Except that per diem paid to board members shall be no less than one full day's per diem, and payment shall be based on attendance at a board meeting rather than the time of arrival and departure. No member of the board shall receive per diem and expense allowance for more than 30 days in any one calendar year. (Acts 1965, No. 220, p. 305, § 3; Acts 1966, Ex. Sess., No. 231, p. 354; Acts 1979, No. 79-435, p. 690; Acts 1984, No. 84-293, p. 555, § 1; Acts 1989, No. 89-535, p. 1097, § 1.)

**§ 9-17-103. Liquefied Petroleum Gas Board—Promulgation, etc., of rules and regulations; inspection of gas systems.**

The board shall have the power to make and enforce rules and regulations governing the design, construction, location, installation and operation of containers, tanks, systems and equipment for storing, utilizing, handling and transporting liquefied petroleum gases and rules to secure the substantial accuracy of all meters, safety devices and regulators generally used in connection with such gases. No person shall be permitted to certify the accuracy of their own company owned meters. Said rules and regulations shall be such as are reasonably necessary for the protection of the health and safety of the public and persons using such gases, and shall be adopted pursuant to the state administrative procedure statutes. All rules and regulations shall be printed in pamphlet form and shall be mailed to all liquefied petroleum gas dealers registered with the board, and to any person upon request. In order that the administrator of the board and inspectors may determine whether or not a danger to the public or to a liquefied petroleum gas user exists, and there is reasonable cause to believe that such danger does exist, the said administrator and inspectors may enter any building or upon any premises connected to a liquefied petroleum gas system for the sole purpose of conducting an inspection or an investigation of such system. If a violation is found in conducting such inspection which is determined to be a hazard and a danger to the public or to a liquefied petroleum gas user, said administrator and inspectors shall have the power, duty and authority to shut off the liquefied petroleum gas system and to condemn the system from further use for purposes of safety until the gas system has been certified as back in compliance with adopted liquefied petroleum gas safety code standards and until the red tag is removed, or authorized to be removed, by a board appointee or employee. When a system is condemned, it shall be "red-tagged." (Acts 1965, No. 220, p. 305, § 5; Acts 1984, No. 84-293, p. 555, § 1; Acts 1988, No. 88-142, p. 215, § 3.)

**§ 9-17-104. Appointment, compensation and bond of administrator; administrator and inspectors constituted peace officers; Liquefied Petroleum Gas Board Fund; excess balances to be transferred to fund.**



(a) The board shall appoint, prescribe the duties of, and fix the compensation of an administrator. Before entering upon the duties of office, the administrator shall make and file with the Secretary of State an official bond in an amount to be fixed by the board. Premiums of the bond shall be paid out of funds of the board. The bond shall be payable to the State of Alabama and shall be written by an approved insurance company qualified to do business in the State of Alabama. The board may dismiss an administrator at its discretion. The board shall adopt a seal, which shall be in the care and custody of the administrator. The board may, subject to the merit system, employ and prescribe the duties of assistants and inspectors necessary to carry out this article. The board may, without regard to the Merit System Act, engage and employ consultants and technical advisors considered necessary in carrying out its responsibilities.

(b) The administrator and inspectors are constituted peace officers of the State of Alabama and are clothed with the powers of peace officers and deputy sheriffs, and may exercise such powers anywhere within the state. They may issue a warning ticket or a uniform traffic citation to or arrest violators of Sections 40-17-160 to 40-17-166, inclusive, and any state or federal law or regulation adopted by the board relating to the transportation of liquefied petroleum gas and carry such violators before the district court in the county in which the violation is committed.

(c) All fees and penalties collected under this article or otherwise inuring to the credit of the board shall be deposited in the State Treasury in a fund designated the "Liquefied Petroleum Gas Board Fund," which is established by this subsection. All expenditures from the fund shall be subject to the terms, conditions, provisions, and limitations of Title 41, Chapter 4, Article 4.

(d) All balances in the fund in excess of \$200,000 at the end of each fiscal year shall be transferred to the Liquefied Petroleum Gas Research and Education Fund established in the State Treasury. The monies in the Liquefied Petroleum Gas Research and Education Fund shall be paid out only by warrant of the comptroller upon the treasurer, upon itemized vouchers, approved by the administrator; provided, that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through 41-19-12, and only in amounts as stipulated in the general appropriation or other appropriation bills each new fiscal year for research, development, and training and the implementation of marketing, advertising, and information programs relating to LP-gas. Any other appropriations, grants, or other sources of funding made available for the purpose of LP gas research and education shall be deposited in the LP Gas Research and Education Fund. (Acts 1965, No. 220, p. 305, § 4; Acts 1966, Ex. Sess., No. 231, p. 354; Acts 1979, No. 79-435, p. 690; Acts 1984, No. 84-293, p. 555, § 1; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1992, No. 92-123, p. 213, § 3; Acts 1993, No. 93-632, p. 1079, § 2.)

**§ 9-17-105. Classification of permits; bonds and insurance to engage in business of selling, distributing, etc., liquefied petroleum gases, etc.; LP-Gas Recovery Fund; exception for state agency, county, etc.; Liquefied Petroleum Gas Board Personal Bond Fund; change of permit holder's name; further local requirements prohibited.**

(a) The board may issue permits to any person to engage in or continue the business of selling, distributing, storing, or transporting liquefied petroleum gases and to engage in or continue the business of selling, installing, servicing, repairing, removing, or adjusting liquefied petroleum gas containers, tanks, or systems or to perform magnetic, hydrostatic, visual, or Xray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders in the State of Alabama; and to prescribe the requirements of any person to obtain the permits. The board may revoke any permit issued, for cause, in the opinion of the board.

(b) The permits shall be of 10 types:

(1) PERMIT A. Shall give the holder a right to engage in or continue the business of selling, distributing, storing, or transporting liquefied petroleum gases and to engage in or continue the business of selling, installing, servicing, repairing, or adjusting liquefied petroleum gas containers, tanks, or systems at retail or installing, repairing, servicing, removing, or adjusting liquefied petroleum carburetion equipment, or to perform magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders. Before any person engages in or continues the business of selling, distributing, storing, or transporting liquefied petroleum gases, except where the liquefied petroleum gas so handled is in quantities of less than one gallon U.S. water capacity and is an integral part of a device for its utilization, or before any person engages in the business of selling, installing, servicing, removing, repairing, or adjusting liquefied petroleum gas containers, tanks, or systems at retail or installing, repairing, servicing, removing, or adjusting liquefied petroleum carburetion equipment, or to perform magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders in the State of Alabama, the person shall first obtain from the board a Permit A and shall execute and file with the board the insurance and a surety in cash as herein required.

The board shall require every applicant for Permit A to present evidence to the board that the applicant has a bona fide contract or a letter of intent to sell, from a reputable supplier of liquefied petroleum gas for an amount of the gases sufficient to supply the customers the applicant has estimated that will be served. In addition to the requirement of possessing a Class A permit, per-

sons doing business as or in a name other than the name listed on the Class A permit shall be required to have a separate Class B-I permit unless the person doing business as or in another name has a separate Class A permit for each business.

(2) PERMIT B. Shall give the holder a right to engage in or continue the business of transporting, storing, distributing and/or selling liquefied petroleum gas at wholesale or in unit quantities of 5,000 gallons or more at retail to end users or act as wholesale distributors, suppliers, or agents thereof or act as a consignor or shipper that delivers or causes LP-gas to be delivered in the State of Alabama. Before any person engages in or continues the business of transporting, storing, distributing, and/or selling liquefied petroleum gas at wholesale in any quantity to retailers or retail to end users in unit quantities of 5,000 gallons or more or to other wholesaler distributors, suppliers, or agents thereof in the State of Alabama and not being a holder of a Permit A, the person shall first obtain from the board a Permit B and shall execute and file the insurance and surety in cash as required herein, except that those wholesale distributors, suppliers, consignors, shippers, or agents thereof who only sell liquefied petroleum gas at wholesale and transport no gas in the state shall not be required to file a motor vehicle or general liability certificate of insurance with the board. Class B permit holders shall keep records and shall report monthly, and at all other times as the board shall deem necessary, all sales of liquefied petroleum gas made to retailers, end users, and to other wholesale distributors, suppliers, or agents in this state. Failure to make timely reports and pay required fees shall cause interest and penalties to be assessed as described in Section 9-17-109. Any person possessing a valid Class A permit shall not be required to obtain a Class B permit.

(3) PERMIT B-I. Shall give the holder a right to operate an individual branch, division, or subdivision or to act as an agent of a Class A permit holder to engage in or continue the business of selling, storing, or transporting liquefied petroleum gases at retail and to engage in or continue the business of selling, installing, servicing, repairing, removing, or adjusting liquefied petroleum gas containers, tanks, or systems at retail or to install, repair, remove, service, or adjust liquefied petroleum carburetion equipment, or to perform magnetic, hydrostatic, visual, or x-ray inspections of liquefied or petroleum gas storage containers and cylinders. Authorized agents of Class B-I permit holders who only operate offpremises cylinder filling stations shall not be required to obtain a Class B-I permit. The board or the board administrator may authorize any person to act as an agent of a Class A or B-I permit holder to install, service, repair, adjust, or inspect liquefied petroleum gas containers, tanks, and systems without obtaining a Class B-I permit; provided that the authorized agents have completed the board's certification requirements and the permit holder has provided the board with proof that the agents have met the insur-

ance and surety in cash, consistent with the requirements of this section. The authorized agents shall not be required to meet the storage requirements of Section 9-17-107.

Before any person engages in or continues in the operation of an individual branch, division, or subdivision or acts as an agent of a valid Class A permit holder to sell, store, or transport liquefied petroleum gas and to sell, install, service, repair, or adjust liquefied petroleum gas containers, tanks and systems at retail, or to install, repair, service, remove, or adjust liquefied petroleum carburetion equipment, or to perform magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers and cylinders, the person shall first obtain from the board a Permit B-1, meet the minimum storage requirements set out in Section 9-17-107, and shall execute and file with the board the insurance and surety in cash as herein required. Branches that were in operation when this article became law shall not be required to meet the storage requirement of Section 9-17-107. A Class B-1 permit holder shall not be required to file or maintain separate or additional insurance or surety in cash as specified by this section provided that the Class B-1 permit holder is included in the parent company's Class A permit insurance and surety in cash on file with the board.

(4) PERMIT C. Shall give the holder a right to engage in or continue the business of installing, servicing, repairing, removing, or adjusting liquefied petroleum gas piping and installing, servicing, repairing, removing, or adjusting liquefied petroleum gas appliances on the down stream side of the tank outlet valves only. Before any person engages in or continues the business of installing, servicing, repairing, removing, or adjusting liquefied petroleum gas piping, and installing, servicing, repairing, removing, or adjusting liquefied petroleum gas appliances on the down stream side of the tank outlet valves only, and not being a holder of a Permit A and B-1, the person shall first obtain from the board a Permit C and execute and file with the board the insurance and a surety in cash as herein required. A separate permit shall be required for each business location.

(5) PERMIT C-1. Shall give the holder a right to engage in or continue the business of installing, servicing, repairing, removing, or adjusting any liquefied petroleum gas motor fuel carburetion equipment, the repair of appurtenances on motor fuel containers, cylinders, or carburetion components. Before any person engages in or continues the business of installing, servicing, repairing, removing, or adjusting liquefied petroleum gas motor fuel carburetion equipment, the repair of appurtenances on motor fuel containers, cylinders, or carburetion components in the State of Alabama, the person shall execute with the board the insurance and surety in cash herein required. A or B-1 permit holders shall not be required to obtain a Permit C-1. A separate permit shall be required for each business location.

(6) PERMIT C-2. Shall give the holder a right to engage in or continue the business of performing magnetic, hydrostatic, visual or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers and cylinders. Before any person engages in or continues the business of performing magnetic, hydrostatic, visual, or x-ray inspection of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders in the State of Alabama and not being a holder of a Permit A or B-1 the person shall obtain a Class C-2 Permit and execute with the board the insurance and surety in cash herein required. A separate permit shall be required for each business location.

(7) PERMIT D. Shall give the holder a right to engage in or continue the business of installing and/or repairing, or removal, of bulk storage systems of 5,000 gallons water capacity or more in single containers or in an aggregate of 5,000 gallons water capacity of a multi-container installation only. Before any person engages in or continues the business of installing bulk storage systems of 5,000 gallons water capacity or more in single containers or in a multi-container installation of an aggregate of 5,000 gallons water capacity, in the State of Alabama and not being a holder of a Permit A, the person shall first obtain from the board a Permit D and shall execute and file with the board the insurance and surety in cash as herein required. The board shall require holders of a Permit D to submit plans for any proposed installation of any liquefied petroleum gas storage facility they are planning to install that is authorized under the terms of their permit. They shall obtain approval for the location and for the plans from the administrator of the board before construction is begun. All facilities shall be constructed according to rules and regulations of the board and the completed unit shall have board approval before being used. A minimum fee of two hundred dollars (\$200) shall be paid to the board at the time the plans for each facility are presented for approval. This fee of two hundred dollars (\$200) will cover examination of the plans and one site inspection. An additional fee of fifty dollars (\$50) for each inspection trip to the site that is required shall be paid to the board before final approval is given for the facility to be used. These fees may be changed by action of the board.

(8) PERMIT E. Shall give the holder a right to engage in or continue the business of calibration and/or repair of liquefied petroleum gas liquid meters.

Before any person engages in or continues the business of calibration and/or repair of liquefied petroleum gas liquid meters, in the State of Alabama and not being a holder of a Permit A, that person shall first obtain from the board a Permit E and shall execute and file with the board the insurance and surety in cash as herein required.

(9) PERMIT F. Shall give the holder the right to engage in or continue the business of filling LP-Gas cylinders and/or LP-Gas motor fuel containers of

less than 351 pounds water capacity from a stationary filling station. Before any person engages in or continues in the business of filling LP-Gas cylinders and/or LP-Gas motor fuel containers and not being a holder or an agent of a Permit A or Permit B-1, the person shall first obtain from the board a Permit F and shall execute and file with the board the insurance and surety in cash as herein required. Owners of businesses that hold a Permit F shall ensure that only trained, qualified personnel fill cylinders that contain LP-gas. Permit F holders shall not hold a Class F-1 permit. A separate permit, surety in cash and insurance certificate shall be required for each filling station.

(10) Permit F-1. Shall give the holder the right to engage in or continue in the business of selling or filling welding or cutting gases as defined in subdivision (7) of Section 9-17-100 or selling or filling LP-gas cylinders and/or LP-gas motor fuel containers of less than 351 pounds water capacity from a stationary filling station and to transport welding or cutting gases, LP-gas cylinders, and/or LP-gas motor fuel containers. To qualify for a Class F-1 permit, the applicant shall be in the business of selling welding or cutting gas supplies and shall meet all state and federal regulations for the transportation of LP-gas. Holders of a Permit F-1 shall not sell more than 40,000 gallons of LP-gas each calendar year to be verified by purchases received in the previous 12 months in a sworn affidavit at time of renewal of the Permit F-1. Permit holders whose gallons exceed 40,000 gallons for the preceding 12 months shall meet the requirements of either the Permit A or Permit B-1, whichever permit is applicable. Permit holders who exceed 40,000 gallons in a calendar year shall be authorized to continue in the business of selling, filling, and transporting welding or cutting gases, LP-gas cylinders, and/or motor fuel containers under their Permit F-1, while the applicant is completing the requirements to obtain the proper permit provided that the permit holder has filed a completed application for the proper permit with the board. Failure to file an application for the proper permit and/or provide the required affidavit by the 31st of January after the Permit F-1 expiration date shall cause cancellation of the Permit F-1. Holders of a Permit F-1 shall not transport LP-gas in any bulk quantity. Holders of a Permit F-1 shall not operate off-premise cylinder exchanges or off-premise filling stations. Owners of businesses that hold a Permit F-1 shall ensure that only trained, qualified personnel fill or transport containers or cylinders that contain LP-gas. Before any person engages in or continues in the business of selling, transporting, or filling welding or cutting gases, LP-gas cylinders, and/or LP-gas motor fuel containers when the person is not an agent of or a holder of either a Permit A or Permit B-1, the person shall first obtain from the board a permit F-1 and shall execute and file with the board on a form provided by the board the insurance and surety in cash as herein required. No person shall act as an agent of any Permit F-1 holder. Permit F-1 holders shall not hold a Class F permit. A separate permit, surety in cash, and insurance certification shall be required for each filling station location.

(11) The administrator may issue temporary Class B, B-1, C, C-1, C-2, D, E, F, and F-1 Permits as soon as all requirements have been met. The temporary permit shall remain in effect until the next regular board meeting, unless the board extends the effective date of any such temporary permit by official action.

(c) The board shall establish and maintain a LP-Gas Recovery Fund conditioned on full compliance with this article and the rules and regulations of the board. When the administrator has determined that there are claims against the LP-Gas Recovery Fund, there shall be a third party hearing by an administrative law judge from the office of the Attorney General to adjudicate the matter. When the appeal time has lapsed after an administrative hearing where the cash surety is determined to be in default, the administrator shall initiate action to recover the five thousand dollars (\$5,000) cash surety from the person found to be in violation of this article and transfer the cash surety into the LP-Gas Research and Education Fund. After the conclusion of the appeal time, payment shall be received in the board office within 10 days. Interest on the payment shall begin to accrue on the eleventh day at the rate of one percent per month or any fraction thereof provided that the board, for good cause shown, may waive the interest or any fraction thereof. Failure to remit payment and interest within 30 days after the expiration of the time to appeal, may result in the suspension or revocation of the person's permit and cause the administrator to transfer five thousand dollars (\$5,000) out of the LP-Gas Recovery Fund into the LP-Gas Research and Education Fund.

(1) Initial payment to the LP-Gas Recovery Fund by all permit holders, except those not required to file a cash surety shall be one hundred dollars (\$100) payable as prescribed by this article. Class C, C-1, and C-2 permit holders shall only be required to file a surety in cash for the company's initial permit. Thereafter, payment made to the LP-Gas Recovery Fund by a permit holder shall be made upon application to the board for the initial permit. Payment shall be one hundred dollars (\$100) and shall be refundable only if the application is denied or cancelled by the board.

(2) When the balance in the LP-Gas Recovery Fund is less than twenty-five thousand dollars (\$25,000), each permit holder shall, on order of the board, make a non-refundable payment to the LP-Gas Recovery Fund. The payment will be determined by the board to return the LP-Gas Recovery Fund balance to forty thousand dollars (\$40,000). Notwithstanding the foregoing, the payment shall not exceed one hundred dollars (\$100) and shall not be levied more than once in any fiscal year.

(3) If the balance in the LP-Gas Recovery Fund exceeds fifty thousand dollars (\$50,000) at the end of any fiscal year, the administrator shall transfer the amount in excess of fifty thousand dollars (\$50,000) to the LP-Gas Research and Education Fund.

(4) If the balance in the LP-Gas Recovery Fund is insufficient to satisfy a duly authorized claim or portion of a claim, the board shall, when sufficient money has been deposited into the LP-Gas Recovery Fund, satisfy the unpaid claims or portions thereof.

(5) The sums received by the board pursuant this section shall be deposited into the State Treasury and held in a special fund to be known as the “Liquefied Petroleum Gas Recovery Fund”, and shall be held by the board in trust for carrying out the purposes of the LP-Gas Recovery Fund. These funds may be invested by the State Treasurer in any investments which are legal under the laws of this state. From time to time, the administrator of the board may cause the withdrawal of cash to be made from the LP-Gas Recovery Fund to carry out the purposes of the LP-Gas Recovery Fund. Any interest or other income from investments of the LP-Gas Recovery Fund shall be credited to the LP-Gas Recovery Fund.

(d) An applicant for any of the 10 permits shall also file with the board evidence that he or she has in force the listed insurance coverage written on standard contract form by an insurance company or companies qualified to do business in the State of Alabama based upon those activities listed below in which he or she is engaged. Proof of insurance shall only be accepted on a form provided by the board. Proof of liability insurance for all LP-Gas cargo vehicles shall be filed on a MCS.90 form or on a form acceptable to the board.

For Class A, B and B-1 Permits; E Permits for performing calibration, and inspections of L.P. gas meters on site:

|   | Each<br>Occurrence | Each<br>Person |
|---|--------------------|----------------|
| Insurance                                     |                    |                |
| Comprehensive automobile liability covering:  |                    |                |
| (Bodily injury liability)                     | \$100,000          | \$50,000       |
| (Property damage liability)                   | 100,000            |                |
| Comprehensive general liability covering:     |                    |                |
| (Bodily injury liability)                     |                    |                |
| (Manufacturers and contractors liability)     | 100,000            |                |
| (Owners and contractors protection liability) |                    |                |
| Insurance                                     | Each<br>Occurrence | Each<br>Person |
| (Completed operations and products liability) |                    |                |



For Class A, B, and B-1 permit cargo vehicles as follows:

|                                 |             |
|---------------------------------|-------------|
| To 3499 water gallon capacity   | \$1million  |
| From 3500 water gallon capacity | \$5 million |

For Class C, C-1, C-2, D, F, and F-1 permits; and E permits only for performing in-shop repairs to LP-gas meters:

|   |           |
|---|-----------|
| Comprehensive general liability covering:     |           |
| (Bodily injury liability)                     | \$100,000 |
| (Manufacturers and contractors liability)     |           |
| (Owners and contractors protection liability) | \$100,000 |
| (Completed operations and products liability) |           |

For permit C-1 LP-gas motor fuel carburetion only:

|   | <u>Each<br/>Occurrence</u> | <u>Each<br/>Person</u> | <u>Each<br/>Vehicle</u> |
|---|----------------------------|------------------------|-------------------------|
| Garage liability, one Direct/primary to include: comprehensive general liability (Bodily injury liability) (Manufacturers and contractors liability) (Owners and contractors protection liability) (Completed operations and product liability) | \$100,000                  | \$50,000               | \$50,000                |
| Garage liability, one Direct/primary to include: garage keepers legal liability   |                            |                        | \$50,000                |

(e) In lieu of filing with the board evidence that the insurance coverage, as outlined above, is in force, the holder of or applicant for a permit described herein may file with the board a good and sufficient surety bond executed by an insurance company qualified to do business in this state, in an amount sufficient to satisfy the requirements of [subsection (d)]. The bond shall be payable to the State of Alabama and shall be conditioned to guarantee the payment of all damages which proximately result from any act of negligence on the part of any person or

his or her agents, servants, or employees while engaging in any of the activities specified in this section. In lieu of the surety bond, any person may execute and file a good and sufficient personal bond, in the amount and conditioned as above specified, which personal bond shall be secured by bonds or other obligations of the State of Alabama or the United States government of equal value. Evidence of required insurance issued by an insurance company shall be filed on a form provided by the board. When a surety bond, personal bond, or other obligations of equal value is used in lieu of evidence of the required insurance coverage, the surety bond, personal bond, or other obligation of equal value shall remain on deposit in the State Treasury in the Liquefied Petroleum Gas Board Personal Bond Fund until at least 365 days has lapsed and there are no claims against the bonds or obligations of equal value. The administrator may issue a refund of the bonds or obligations of equal value from the bond fund after proper application has been submitted. When the administrator has notice of a claim filed against the monies or other obligations of equal value held in lieu of an insurance contract, the administrator shall deliver to the court, interplead and deposit with the court the amount of money or obligations held, the administrator and the Liquefied Petroleum Gas Board shall be discharged from liability as to any claim, and the action shall continue as between the claimants of the monies or properties. If the matter is adjudicated before 365 days has lapsed, the court shall return any balance of any money or obligation to the Liquefied Petroleum Gas Board Personal Bond Fund.

(f) Any state, county, or any incorporated municipality or agency, or instrumentality thereof and any industrial user who makes application and possesses a Class C permit shall not be required to file with the board a surety in cash, provided that all of the servicing, repairing, adjusting, removing, and installing of LP-gas equipment, appliances, and systems is only being accomplished on their own LP-gas equipment, appliances and systems.

(g) There is hereby created in the State Treasury a fund to be designated as the "Liquefied Petroleum Gas Board Personal Bond Fund" into which cash bonds or other obligations shall be deposited and from which the bonds shall be removed or refunded by the administrator at the appropriate time. The monies or other obligations in the bond fund shall not revert to the General Fund at the end of each state fiscal year, but shall be carried over into each subsequent state fiscal year and disbursed as provided in this section.

(h) Whenever a Class A, B or B-1 permit holder's company name has changed, all vehicles and equipment assigned to the company shall be relettered with the new company name as follows: by the annual renewal of the company permit or within 180 days of the name change, whichever is greater, provided, for good cause shown the board may extend the date by official action. Unmarked LP-gas delivery cargo vehicles or equipment placed in operation shall be lettered and placarded as required by the applicable section of the Code of Federal

Regulations, Title 49, within 90 days of the date the vehicle was first placed into operation within this state. Vehicles and equipment not lettered with the company name within the described period shall be removed from service until the proper company name is affixed to the vehicle or equipment by the owner.

(i) Counties, municipalities, or other local entities are prohibited from requiring any further local testing or other requirements of LP-gas servicemen, certified by the LP-gas board, subject to the payment of any applicable local privilege, license, or business fees or charges. (Acts 1965, No. 220, p. 305, § 6; Acts 1979, No. 79-435, p. 690; Acts 1984, No. 84-293, p. 555, § 1; Acts 1988, No. 88-142, p. 215, § 3; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1992, No. 92-123, p. 213, § 3; Acts 1994, No. 94-211, § 2, Acts 1997, No. 97-685).

**§ 9-17-106. Permit fees; when permits and fees due and delinquent; penalties for failure to secure permits and pay fees by delinquent date; reinstatement of permit; temporary permit; sale and purchase reports to board; percentage of invoice cost paid to board; refunds of certain fees; exemption from Section 40-12-84.**

(a) *Fees for Permit A and Permit B.*—Every applicant for [a] Permit A or a Permit B, at the time of issuance, shall pay to the board a fee of three hundred dollars (\$300) and annually thereafter pay to the board a fee of two hundred dollars (\$200). Permits and fees shall be due on October 1 and delinquent after October 31 of each year.

Every person required to renew permits and pay fees who fails to do so by the delinquent date shall incur a penalty of ten dollars (\$10) for each day he or she is delinquent in complying with the provisions of this section, and the penalty shall be paid to the board before the issuance of the permit. Delinquency shall be determined by the United States Postal Service postmark when the date on the postmark falls on a later date than the delinquent date.

(b) *Fees for Permit B-1.* Every applicant at the time of issuance, shall pay to the board a fee of one hundred dollars (\$100) and annually thereafter pay to the board a fee of one hundred dollars (\$100). The permits and fees shall be due on October 1 and delinquent after October 31 of each year.

Every person who is required to renew permits and who fails to pay the fees by the delinquent date, shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for the delinquency and makes payment of the regular fee of one hundred dollars (\$100) plus a penalty of fifty dollars (\$50). The fees and penalties shall be paid to the board before the permit shall be reissued. Delinquency shall be determined by the United States Postal Service postmark when the date on the postmark falls on a later date than the delinquent date. After a permit has been cancelled for six months, the permit shall be applied for in the manner previously set by the board.

(c) *Fees for Permit C.*—Every applicant for a Permit C shall at the time of issuance of the permit by the board and annually thereafter pay to the board a permit fee of fifty dollars (\$50). The permit and fees shall be due January 1 and delinquent after January 31 of each year.

Every person required to renew a permit and who fails to do so by the delinquent date shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make payment of the regular fee of fifty dollars (\$50) and penalty of twenty-five dollars (\$25). After six months the person may reapply in the manner previously set by the board.

(d) *Fees for Permit C-1.* Every applicant for a Permit C-1 shall, at the time of issuance of the permit by the board, and each year subsequently, pay to the board a permit fee of fifty dollars (\$50). The permit and fees shall be due January 1 and delinquent after January 31 of each year.

Every person required to renew a permit, and who fails to do so by the delinquent date, shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for the delinquency and make payment of the regular fifty dollar (\$50) fee and penalty of twenty-five dollars (\$25). After six months the person may reapply in the manner previously set by the board.

(e) *Fees for Permit C-2.*—Every applicant for a Permit C-2 shall, at the time of issuance of the permit by the board, and each year subsequently, [\*] pay to the board a permit fee of one hundred dollars (\$100). The permit and fees shall be due January 1 and delinquent after January 31 of each year.

Every person required to renew a permit, and who fails to do so by the delinquent date, shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for the delinquency and make payment of the regular fee of one hundred dollars (\$100) and a penalty of twenty-five dollars (\$25). After six months, the person may reapply in the manner previously set by the board.

(f) *Fees for Permit D.*—Every applicant for a Permit D shall at the time of issuance of the permit by the board and annually thereafter pay to the board a permit fee of two hundred fifty dollars (\$250). The permit and fees shall be due January 1 and delinquent after January 31 of each year.

Every person required to renew a permit and who fails to do so by the delinquent date shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and makes payment of the regular fee of two hundred fifty dollars (\$250) and a penalty of fifty dollars (\$50). After six months the person may reapply in the manner previously set by the board.

(g) *Fees for Permit E.*—Every applicant for a Permit E shall at the time of issuance of the permit by the board and annually thereafter pay a permit fee of fifty dollars (\$50). The permit fees shall be due on January 1 and delinquent after January 31 of each year.

Any person required to renew a permit and who fails to do so by the delinquent date shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make a payment of the regular fee and a penalty of twenty-five dollars (\$25). After six months the person may reapply in the manner previously set by the board.

(h) *Fees for Permit F and F-1.*—Every applicant for a Permit F and F-1 shall at the time of issuance of the permit by the board and annually thereafter pay a permit fee of one hundred dollars (\$100). The permit fees shall be due January 1 and delinquent after January 31 of each year. Filling stations that are owned by Class A or Class B-1 Permit holders or operated by agents of Class A or Class B-1 Permit holders are exempt from obtaining a Class F Permit.

Every person required to renew a permit and who fails to do so by the delinquent date shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make payment of the regular fee of one hundred dollars (\$100) and a penalty of fifty dollars (\$50). After six months the person may reapply in the manner previously set by the board. Class F and F-1 Permit holders shall keep records, report monthly sales of out-of-state motor fuel, and remit required fees by the twentieth of the months following the sales. Failure to make timely reports and pay required fees shall require interest and penalties to be assessed as described in Section 9-17-109.

(i) In the event that an end user located within the State of Alabama purchases or obtains liquefied petroleum gas on which the permit fees required by this article have not been paid, the end user shall be required to report to the board the cost of any liquefied petroleum gas purchased during each period from October 1 to September 30 each year and shall pay to the board any fees that are due.

All end users who purchase liquefied petroleum gas in unit quantities of 5,000 gallons or more are hereby required to furnish the board with written information concerning any purchases as may be requested by the board.

(j) Any supplier who sells liquefied petroleum gas to any marketer or any end user in the state or who delivers or causes to be delivered liquefied petroleum gas to any point in the state, shall report to the board all sales by the twentieth of the month following the month in which the sales are made. Each supplier shall add to each individual sales invoice an amount set by the board not to exceed two-fifths of one percent of the invoice cost of the total billing which shall include the

cost of the product and freight to the point of delivery in the state to the marketer and shall remit to the board all money collected with the required monthly report.

The board may, from year to year, lower or raise the percentage of invoice cost imposed by this article.

At no time may the board raise the percentage of invoice cost imposed by this article above the rate of two-fifths of one percent.

(k) Any permit holder who sells or otherwise exchanges liquefied petroleum gas in the State of Alabama not otherwise covered under this article shall report to the board the cost of the sales or exchanges by the twentieth of the month following the month such sales or exchanges were made. The permit holder shall submit to the board a percentage of the invoice cost as specified by the board not to exceed two-fifths of one percent of the cost of sale or value of exchange. The invoice cost shall include the cost of the product and freight to the point of delivery in the state to the marketer.

If there has been no actual cash value placed on the liquefied petroleum gas by the owner of the product when it is either imported into or exported out of the state, the Liquefied Petroleum Gas Board shall determine the wholesale cash value of the liquefied petroleum gas for the purpose of assessing and collecting the fees imposed by this article. In determining the cash value of the LP-gas, the board shall use the average FOB wholesale market value price of the liquefied petroleum gas being delivered on the date of delivery at the pipeline loading terminal located in the state nearest to the delivery destination of the gas.

(l) Where a Class A or B-I permit holder buys liquefied petroleum gas in the State of Alabama and pays the required fees on the liquefied petroleum gas and the Class A or B-I permit holder sells the gas to end users outside the State of Alabama, the board may issue a credit or refund of the amount of the fee upon proper application to the board; provided, that the liquefied petroleum gas delivered to the out-of-state end user shall be transferred from the permit holder's storage facilities located within the State of Alabama. The application shall be submitted to the board no later than 30 days following the end of each fiscal quarter. Failure to make a timely application shall result in forfeiture of the fee.

(m) Class A, B, B-I, C, and D permit holders who are licensed by this board to install gas piping shall be exempt from the requirement of Section 40-12-84 if they only install gas piping. (Acts 1965, No. 220, p. 305, § 7; Acts 1979, No. 79-435, p. 690; Acts 1984, No. 84-293, p. 555, § 1; Acts 1986, No. 86-531, p. 1029; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1994, No. 94-211, § 2; Acts 1997, No. 97-685).

**§ 9-17-107. Requirements as to storage capacity; exemption; submission of plans; construction requirements; fees.**

(a) The board shall require that every applicant for a Permit A have located within the State of Alabama a minimum of 30,000 (water gallon capacity) gallons storage capacity for liquefied petroleum gases. Class B-1 permit holders shall be required to have a minimum of 18,000 (water gallon capacity) gallons storage capacity of liquefied petroleum gas. However, persons who are valid agents of a Class A permit holder who sell only welding gases that qualify as liquid petroleum gas under Section 9-17-100, shall be exempt from the minimum storage requirements under this section.

(b) If the 30,000 gallon (water capacity) storage consists of more than one container, then no storage container in any installation used to meet this requirement of the law shall be a size less than 6,000 gallon (water capacity) and the storage capacity required by this section of the law shall be within close proximity to the area serviced and used by the applicant to service his customers in the State of Alabama.

(c) The board shall require that such person shall submit plans for the proposed bulk storage facility to the office of the board and obtain approval by the administrator of such plans before construction is begun. All such facilities must be constructed according to rules and regulations of the board and the completed unit must have board approval before being used.

(d) If the holder of a Permit A or Permit B-1 submits plans to the board for a storage plant that shall remain his property even though the plant be at a customer's site or if the plant to be built is to be used as part of his own distribution system, then there will be no additional fees for approval and inspection of this facility; however, if this permit holder undertakes to install a bulk storage system of 5,000 gallons water capacity or more in single containers or in multi-container installation of an aggregate of 5,000 gallons water capacity, he must obtain approval for the location and for the plans from the administrator of the board before construction is begun. When plans for the bulk storage plant described above are submitted to the board for approval, a fee of \$200.00 must be paid at the same time. This fee of \$200.00 will cover examination of the plans and one site inspection. An additional fee of \$50.00 for each inspection trip to the site, that is required, shall be paid to the board before final approval is given for the facility to be used. These fees may be changed by the board. (Acts 1965, No. 220, p. 305, § 8; Acts 1979, No. 79-435, p. 690; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1992, No. 92-123, p. 213, § 3.)

**§ 9-17-108. Directive order of discontinuance; appeal; injunction; hearings by board; imposition of penalties.**

(a) Due to the inherent nature of liquefied petroleum gas which could cause a

danger to the public or to a liquefied petroleum gas user, the board or the board administrator shall have the administrative authority to issue a written directive order requiring any person who violates any of the provisions of this article as amended from time to time or any rule or regulation promulgated by the board to discontinue the operation of any LP-Gas business or LP-Gas system immediately and prohibit such person from commencing operations until said violations have been corrected. When a written directive is issued by the board or the board administrator, it shall be immediately complied with by the recipient. When a directive order has been issued against a person, the recipient may, within five days, appeal to the circuit court of the county in which the said violations occurred. The circuit court shall within 10 days review such written directive and file a decision thereon and unless, by the authority of said court, the directive is revoked or modified, it shall remain in full force and be complied with within the time fixed in the said directive or by decision of the circuit court. Any person who feels himself aggrieved by the decision of the circuit court may, within the time provided by law after the issuance of the decision of the circuit court, file an appeal with the court of civil appeals to review such decision or judgment. Such parties as shall file an appeal shall file a bond in the amount fixed by the court or by law and unless said directive is revoked or modified by the court of civil appeals the directive shall be complied with in the time fixed by said directive or by decision of the court of civil appeals.

(b) Any person engaging in the state of Alabama in any of the businesses defined in section 9-17-105, without first having secured a permit as provided by section 9-17-105 or who shall have been convicted of a second or subsequent offense of violating any of the provisions of this article or any rule, order or regulation promulgated pursuant hereto may be enjoined from engaging in such business in the state of Alabama for a period of not less than one nor more than five years, and the board, through the district attorneys or attorney general, may institute such action in courts of competent jurisdiction of this state without the necessity of posting bond.

(c) The board is authorized to hold hearings, call witnesses, administer oaths, take testimony and obtain evidence in the conduct of its business. It is further authorized to impose monetary penalties and take such disciplinary actions as are authorized. (Acts 1965, No. 220, p. 305, § 10; Acts 1989, No. 89-535, p. 1097, § 1.)

**§ 9-17-109. Penalties for violations of provisions of article, rules, etc.; suitable records of transactions to determine amount of fees required; notice of assessment and hearing; filling of containers; notification of LP-gas dealer concerning service performed.**



(a) Any person violating this article or any rule, order, or regulation promulgated pursuant to this article shall, on conviction thereof, be fined not more than \$1,000 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months. Every violation of this article or any rule, order, or regulation promulgated pursuant to this article shall constitute a separate offense.

(b) Every person subject to the fees imposed by Section 9-17-106 shall keep and preserve suitable records of all liquefied petroleum gas transactions subject to fees and any other books or accounts necessary to determine the amount of fees for which the person is liable under this article. Those records shall be retained for a period of not less than three years, and shall include the name, address of buyer, date of sale, amount of gallons purchased, cost per gallon, total amount of sale, and the amount of fees collected under Section 9-17-106. The board, the board administrator, or employees of the board may inspect, review, and copy or detain any original records, notes, or documents either written or electronically transcribed that are required to be kept by this article or that relate to the selling, storing, transporting, installing, servicing, testing, inspecting, repairing, adjusting, and calibrating of LP-gas meters, containers, tanks, or systems. Those records, notes, or documents shall be turned over to the board at a location designated by the board within 24 hours of the notice or within a reasonable time in excess of 24 hours set by the board or board administrator in cases of hardship.

(1) If any person fails to report and remit fees required in Section 9-17-106, the board shall issue a written order by registered or certified mail to the person to report and remit those fees. If the person fails or refuses to make the report and remittance within 30 days following the order, the board shall make the report based upon any information it reasonably obtains, shall assess the fees due thereon, and shall add a penalty of 25 percent of the fees due, as assessed by the board, and interest at the rate of one and one-half percent per month, or fraction thereof, from the date the fees were originally due. If a good and sufficient reason is shown for the delinquency, the board may waive or remit the 25 percent penalty or a portion thereof.

(2) Any person who reports but fails to pay the fees levied in Section 9-17-106 within the time required by this article shall pay, in addition to the fees, a penalty of 10 percent of the amount of the fees due, together with interest thereon at the rate of one and one-half percent per month or fraction thereof from the date at which the fees levied in this section became due and payable. The penalty and interest shall be assessed and collected as part of the fee. The board, for good cause shown, may waive or remit the 10 percent penalty or any portion thereof.

(3) As soon as practicable after the report is filed, the board shall examine and ascertain the proper amount of the fee as shown by the report. Any excess

shall be refunded to the person who filed the report or credited on any deficiency previously due. If the amount paid is deficient, as shown by the report, the board shall immediately notify the persons of the deficiency and shall add a penalty of 10 percent of the amount due. If the deficiency is not paid within 30 days from the date of notice, interest shall accrue on the deficiency at the rate of one and one-half percent per month or fraction thereof, from the date the fee was due and shall be collected as part of the fee. The board, for good cause shown, may waive or remit the penalty or any portion thereof.

(4) When the board ascertains from examining and auditing the records of a person who collects the fee or from other information that the amount or amounts previously paid by the person for any period or periods is incorrect, the board shall compute the correct amount of fees due. If it appears that the amount paid is excessive, the excess shall be refunded or credited on any deficiency previously due by the person as required by this article. If it appears that the amount paid is deficient, the board shall notify the person, and shall demand payment. If payment is not paid within 15 days from date of demand, the board shall add a penalty of one and one-half percent per month from the date the fees, or any part thereof, becomes due. If the board finds a willful or fraudulent intent to evade the fees due, it may assess a penalty of 25 percent of the fees. The penalty shall be reviewable on appeal.

(c) When the board makes an assessment as provided in Section 9-17-106, the board shall notify the person by registered or certified mail of the amount of the assessment and shall notify the person to appear at a hearing of the board at the board office on a day named not less than 20 days from date of the notice to show cause why the assessment should not be final. The appearance may be by an agent or attorney. If no response is made on or before the date of the hearing, or if the response is not sufficient in the judgment of the board, the assessment shall be made final in the amount originally fixed or in any amount determined by the board to be correct. The board shall notify the person of the final assessment. A notice by the United States mail, addressed to the last known place of business, shall be sufficient.

Any person who has duly appeared and protested an assessment may appeal the final assessment of the board. A hearing on the appeal shall be held at a time and place designated by the board. No appeal shall lie in cases if the person has failed to appear and protest.

Any assessment made by the board shall be deemed correct, prima facie, on appeal.

(d) Liquefied petroleum gas containers may be filled only by the owner or upon the owner's authorization. The owner of a liquefied petroleum gas contain-

er is responsible for its suitability for continual service. Any person who fills or refills any LP-gas container or who, without authorization, turns any liquefied petroleum gas system on after it has been inspected, shut down, and condemned for safety violations, or operates an LP-gas motor vehicle, transport, or delivery unit that has been condemned for safety purposes or mechanical defects and red-tagged under authority of the liquefied petroleum gas board, or removes any red tag without authorization from the board administrator, or any person who authorizes an unqualified person to install or replace gas piping or install, connect, repair, or service any LP-gas equipment is guilty of a Class B misdemeanor as defined in Title 13A, and, upon conviction, shall be punished as provided by law

(e) To ensure safety to the consumer, any person who authorizes any person other than his or her servicing LP-gas supplier to perform maintenance, or repair, install, adjust, or service any liquefied petroleum gas appliance, including but not limited to, ranges, heat producing devices, hot water heaters, containers, tanks, or any LP-gas system, shall notify the LP-gas dealer who regularly supplies the system with LP-gas that one or more of the aforementioned actions have been performed on his or her LP-gas system within five work days after the maintenance, installation, or work has been performed, or before the LP-gas system is next filled with LP-gas, whichever occurs first. (Acts 1965, No. 220, p. 305, § 9; Acts 1979, No. 79-435, p. 690; Acts 1984, No. 84-293, p. 555, § 1; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1993, No. 93-632, p. 1079, § 3.)

#### **§ 9-17-110. Creation of Liquefied Petroleum Gas Research and Education Advisory Committee.**

(a) The Liquefied Petroleum Gas Research and Education Advisory Committee is created. The committee shall consist of five members as follows: Two members shall be industrial members of the LP-Gas Board appointed by the board chair; two members shall be either a dealer or a dealer's manager who is a member of the Alabama Propane Gas Association appointed by the association's Board of Directors; the fifth member shall be the chair of the LPGas Board who shall serve as chair of the committee. The board administrator shall serve as the executive director of the committee.

(b) The term of office of the appointed committee members shall be one year. Members may serve successive terms. Appointed members of the committee shall take office on the date of the July board meeting each year.

(c) No member of the committee shall receive per diem or expense allowance.

(d) The committee may adopt all necessary rules relating to research and education of the public as well as industrial members and employees regarding the use of LP-gas.

(e) No single corporation or partnership comprised of separate entities within the state, whether or not separately licensed, may be represented on the commit-

tee by more than one representative at any one time.

(f) The Liquefied Petroleum Gas Research and Education Fund may be used by the committee and administered by the LP-Gas Board administrator to pay for activities relating to LP-gas, including the following direct and indirect costs:

(1) Research of all possible uses of LP-gas to enhance air quality.

(2) Research, development, and implementation of marketing, advertising, and informational programs relating to LP-gas to make LP-gas more understandable and readily available to consumers.

(3) Development of conservation and distribution plans to minimize the frequency and severity of disruptions in the supply of LP-gas.

(4) Development of a public information plan to provide advisory services relating to LP-gas to consumers.

(5) Development of voluntary participation plans to promote the use of LP-gas by federal, state, and local agencies.

(6) Development and administration of educational programs relating to LP-gas safety, research, and other related programs directed towards the consumer, industrial members, and employees.

(7) Other functions the committee determines are necessary to add to a program established by the committee for the purpose of promoting the use of LP-gas.

(8) The administrative costs incurred by the committee under this section. (Act 1997, No. 97-685).

(9) The making of grants, contracts, and appropriations as approved by the committee to fund comprehensive LP-gas research and education programs, seminars, and workshops and for providing rebates for the purpose of promoting the use of LP-gas. (Acts 1965, No. 220, p. 305 § 11; Acts 1979, No. 79-435, p. 690, Acts 1993, No. 93-632, p. 1079 § 3; Acts 1997, No. 97-685.).

## Notes

## **Section 2**

### **LP-Gas Room Heaters.**

#### **§ 9-17-120. Definitions**

For the purposes of this article, the following words shall have the following meanings:

(1) LP-GAS. Liquefied petroleum gas as defined in Section 9-17-100.

(2) USED MANUFACTURED HOME. A manufactured home which is not being sold or offered for sale a.s new, is not the first purchase of the manufactured home, and is used for residential purposes. (Acts 1994, No. 94-706, § 1.)

#### **§ 9-17-121. Installation of heaters—residences.**

The following LP-Gas room heaters may be installed in a residence that is a one- or two-family dwelling and that is not a manufactured home (mobile home) or a modular home as provided in this section:

(1) One listed wall-mounted LP-Gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bathroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 6000 BTU per hour and combustion and ventilation air is provided in accordance with paragraph 6.1(b) of the National Fuel Gas Code, NFPA 54.

(2) One listed wall-mounted LP-Gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bedroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 10,000 BTU per hour and combustion and ventilation air is provided as specified in paragraph 6.1(b) of the National Fuel Gas Code, NFPA 54. (Acts 1994, No. 94-706, § 2.)

#### **§ 9-17-122. Installation of heaters—used manufactured homes.**

The following LP-Gas room heaters may be installed in a used manufactured home as follows:

LP-Gas listed vented room heaters equipped with a 100 percent safety pilot and a vent spill switch or LP-Gas listed unvented room heaters equipped with factory equipped oxygen depletion safety shut-off systems may be installed in a used stationary manufactured home (mobile home) but not in sleeping quarters or bathrooms in the manufactured home (mobile home) when the installation of the heater is not prohibited by the appliance manufacturer and when the input rating of the room heater does not exceed 20 BTU per hour per cubic foot of space and

combustion and ventilation air is provided as specified in Section 5.3 of the National Fuel Gas Code, NFPA 54. All room heaters installed pursuant to this section shall be securely anchored to the wall or floor. (Acts 1994, No. 94-706, § 3.)

**§ 9-17-123. Enforcement.**

This article shall be enforced by the Liquefied Petroleum Gas Board. (Acts 1994, No. 94-706, § 4.)

**§ 9-17-124. Reference to National Fuel Gas Code.**

Any reference to the National Fuel Gas Code, NFPA 54, shall include any future changes to the code when adopted by the Liquefied Petroleum Gas Board. (Acts 1994, No. 94-706, § 5.)

**§ 9-17-125. Preemption of local law.**

This article shall preempt any local law or any ordinance or authority of any local governing body to regulate the subject matter of this article and no local law or ordinance or authority of any local governing body shall supersede this article. (Acts 1994, No. 94-706, § 6.)

## Section 3

### Liquefied Petroleum Gas Fuel Tax

#### **§ 40-17-160. Flat fee on vehicles using liquefied petroleum gas or natural gas as fuel.**

In lieu of an excise tax on liquefied petroleum gas and natural gas used to propel motor vehicles over the highways of this state, there is hereby levied an annual flat fee on the following classes of vehicles which require a motor vehicle license using liquefied petroleum gas or natural gas as fuel. For all other purposes other than the excise tax, the terms “liquefied petroleum gas” and “natural gas” shall be included with the term gasoline as defined in Section 40-17-30:

|   |          |
|---|----------|
| Class 1. Passenger automobiles, vans, and truck and pickups<br>under one ton . . . . .  | \$ 75.00 |
| Class 2. Recreational vehicles and vans and trucks one ton or<br>over but with a rear axle carrying capacity of less than<br>14,000 pounds . . . . .                                  | \$ 85.00 |
| Class 3. Bobtail trucks and equivalent vehicles to be defined as<br>any other vehicle having the capacity of carrying a loaded<br>rear axle weight of 14,000 pounds or more . . . . . | \$150.00 |
| Class 4. Tractor/trailer units . . . . .  | \$175.00 |

(Acts 1980, No. 80-739, p. 1503, § 1; Acts 1981, 3rd Ex. Sess., No. 81-1136, p. 409, § 1.)

#### **§ 40-17-161. Annual decal from Liquefied Petroleum Gas Board; reduced fee for vehicles acquired, etc., after September 30 and after December 31; ten-day application period after conversion; display of decal indicating use of liquefied petroleum gas as fuel; penalties.**

(a) Every person owning and/or operating such vehicles shall make application for and obtain an annual decal from the Liquefied Petroleum Gas Board which shall serve as an identification marker that said flat fee has been paid. Each decal issued by the Liquefied Petroleum Gas Board shall not exceed a cost of \$5. The decal shall be in such form and of such size as the Liquefied Petroleum Gas Board shall prescribe. Such decal shall be attached or affixed to the vehicle in the place and manner prescribed by the Liquefied Petroleum Gas Board. The first decals provided for in this chapter shall be issued October 1, 1980, for a term of six months and thereafter the term of the decals shall begin at April 1 of each year and expire on March 31 of the following year. If any passenger automobile or truck is acquired, liquefied petroleum gas or natural gas system installed or vehi-



cle put in operation after September 30 the fee shall be one-half the flat fee stated in Section 40-17-160, or after December 31, the fee shall be one-fourth of the flat fee stated in Section 40-17-160. Owners of all newly converted vehicles must apply for the required decal as provided for in Section 40-17-160 within 10 days of the completion date in which the liquefied petroleum or natural gas system was installed on the vehicle. Failure to submit an application within the 10-day period requires the payment of penalties as prescribed by Section 40-17-164.

(b) In order to easily identify vehicles using liquefied petroleum gas as a motor fuel to police, fire and rescue members, a decal reading "Powered by Liquefied Petroleum Gas" shall be prominently displayed on the rear of any vehicle using liquefied petroleum gas as a motor fuel. The decal colors shall be blue with a white background with the letters no smaller than one inch in size. Provided, however, that such decal shall not be required on liquefied petroleum gas bobtail delivery units.

The board administrator and the board inspectors shall have the power and authority to issue a uniform traffic citation to any person violating the provisions of this section. For the purpose of enforcing this section, there shall be prima facie evidence that a connected, operational liquefied petroleum gas carburetion system, which is part of a dual or switchable gasoline-liquefied petroleum gas system, has been in use, if there is liquefied petroleum gas in the liquefied petroleum gas tank. Any violation of the provisions of this section shall constitute a Class B misdemeanor as defined in Title 13A, and shall be punished as provided by law. (Acts 1980, No. 80-739, p. 1503, § 2; Acts 1981, 3rd Ex. Sess., No. 81-1136, p. 409, § 1.)

#### **§ 40-17-162. Remittance of flat fee and cost of decal; disposition of proceeds.**

Every person required to make application for and receive a decal under this chapter shall at the time of making said application remit to the Liquefied Petroleum Gas Board the total amount of the flat fee due plus the cost of the decal issued. The proceeds of the flat fee shall be deposited by the Liquefied Petroleum Gas Board in the State Treasury to the credit of the Public Road and Bridge Fund. The proceeds of the decal issuance fee shall be deposited in the State Treasury to the credit of the Liquefied Petroleum Gas Board Fund. Any administration costs relating to such decals shall be paid by the Liquefied Petroleum Gas Board from such fees collected. Said costs are hereby appropriated from the Liquefied Petroleum Gas Board Fund. (Acts 1980, No. 80-739, p. 1503, § 3.)

#### **§ 40-17-163. Rules and regulations.**

The Liquefied Petroleum Gas Board is authorized to promulgate any rules and regulations necessary to carry out the provisions of this chapter. (Acts 1980, No. 80-739, p. 1503, § 4.)

**§ 40-17-164. Penalty for failure to timely obtain decal; disposition of penalty.**

Any person who fails to obtain a current decal within 30 days of the date said decal is required as provided in this chapter, shall be liable for a penalty of 20 percent of the fee required at the date decal is purchased in addition to the fee. Said penalty shall be paid at the same time and in the same manner as the flat fee; and such penalty shall be deposited by the Liquefied Petroleum Gas Board in the State Treasury, to the credit of the Liquefied Petroleum Gas Board Fund. (Acts 1980, No. 80-739, p. 1503, § 5.)

**§ 40-17-165. Tax on out-of-state vehicles; remittance; purchase of decals for out-of-state vehicles.**

If an out-of-state vehicle comes to a propane or natural gas dealer or supplier in the State of Alabama to purchase fuel, the dealer must collect in lieu of any fees levied by this chapter an amount equal to the current Alabama motor fuel tax in effect as prescribed by Sections 40-17-2 and 40-17-220 and remit these funds to the Alabama LP-gas board before the 20th of the following month after the date of the sale. Decals for out-of-state vehicles can be purchased with decal fees and issue fees to be paid as prescribed by Sections 40-17-160 and 40-17-161. (Acts 1980, No. 80-739, p. 1503, § 6; Acts 1981, 3rd Ex. Sess., No. 81-1136, p. 409, § 1.)

**§ 40-17-166. Exemption of certain vehicles from excise tax.**

Any vehicles of the classes described in Section 40-17-160 owned by the state, county, or any incorporated municipality or agency, or instrumentality thereof, or any vehicle not requiring a license plate or motor vehicle license, including but not limited to forklift trucks and agricultural vehicles, shall be exempt from any excise tax levied by the provisions of this chapter. (Acts 1980, No. 80-739, p. 1503, § 7; Acts 1981, 3rd Ex. Sess., No. 81-1136, p. 409, § 1.)

  
Speaker of the House of Representatives

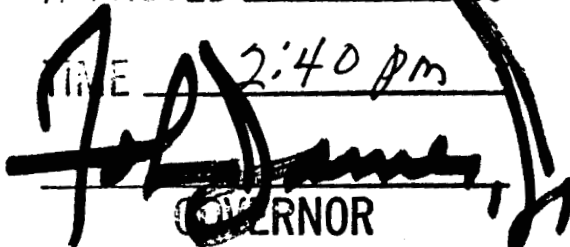
  
President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House March 4, 1997.

\_\_\_\_\_  
Greg Pappas  
Clerk

Senate MAY 19 1997 Passed

5-29-97  
APPROVED \_\_\_\_\_ 19  
TIME 2:40 pm  
  
GOVERNOR

Alabama Secretary of State

Act Num....: 97-685  
Bill Num...: H-317

Recv'd 05/29/97 05:27pm HMB